

MINUTES OF THE
ANNUAL MEETING OF THE
STRUCTURAL PEST CONTROL BOARD
October 5-6, 2011

The meeting was held on Wednesday and Thursday, October 5-6, 2011, in the Hearing Room located at 2005 Evergreen Street, Sacramento, commencing at 1:40 P.M. with the following members constituting a quorum:

Curtis Good, President
David Tamayo, Vice President
Cliff Utley
Cris Arzate

Board staff present:

Bill Douglas, Interim Registrar / Executive Officer
Susan Saylor, Assistant Executive Officer
Ronni O'Flaherty, Staff Services Analyst

Departmental staff present:

Chuck Andrews, Associate Director
Kathy Boyle, Enforcement Program Specialist
Michael Zeiss, Staff Environmental Scientist
Jodi Clary, Legal Counsel

Board Liaison, Deputy Attorney General, Langston Edwards was also in attendance.

CALL TO ORDER

The meeting was called to order at 1:40 P.M.

ROLL CALL

Ms. Saylor read the roll call.

FLAG SALUTE

Mr. Good led everyone in the flag salute.

APPROVAL OF THE MINUTES FROM THE JULY 20 AND 21 BOARD MEETING

Mr. Utley moved and Mr. Good seconded to approve the minutes from the July 20 and 21 Board meeting. Passed unanimously.

EXECUTIVE OFFICER'S REPORT

Mr. Douglas reported on the following:

- A specialist meeting was held on October 4 and 5 to review policies and procedures. These meetings have been being held twice a year and he hopes to start holding these meetings on a quarterly basis.
- The Structural Pest Control Board (SPCB), Department of Pesticide Regulation's (DPR) Enforcement Branch, Yolo County District Attorney, Yolo County Department of Food and Agriculture, California Highway Patrol, and Department of Consumer Affairs (DCA) Division of Investigation recently had an unlicensed activity sting resulting in an arrest. The court date is scheduled for November and more details will be available at the January Board meeting.

Ms. Saylor reported on the following:

- Licensing survey statistics were reviewed with the Board members. Although the survey results are usually good, this quarter's survey results were exceptional. Melissa Roberts, who is on the Operator and Company Registration desk, is always spoken highly of on these surveys.
- WDO statistics were reviewed with the Board members. WDO filings have been extremely higher this year than in 2010/11. Filings dropped dramatically when the fee was increased in July of 2010 and 30,000 more activities were filed this September compared to last.
- Budget documents were reviewed with the Board members to show the conditions for all three of the Board's funds. These documents are confidential until the Governor's budget is released, but show that for fiscal year 10/11, 4.1 million dollars were budgeted for Board expenditures and only 3.6 million was spent.

Mr. Arzate asked Ms. Saylor if the expenditures for fiscal year 11/12 should be similar to last fiscal year.

Ms. Saylor responded that even though the Board is making some major purchases including WDO Servers (\$35,000) and new computers for staff (\$30,000), expenditures should be similar to last year because there was a large retirement payout in fiscal year 10/11.

Mr. Arzate questioned what happens to the old equipment once it is replaced.

Ms. Saylor responded that equipment is surveyed through the department.

- The hiring freeze for DPR was lifted on Thursday. For the freeze to be lifted, the department was required to cut \$337,000 from their budget and required the Board to cut \$37,000 from its budget. The Board is now recruiting to fill the vacant cashiering and specialist positions. The specialist's territories have been redrawn, and the vacant specialist position will now cover part of Northern California.
- DCA has scheduled a meeting to discuss the BREEZE Project in November. The Board is still scheduled to start with BREEZE in the 2013/14 fiscal year. There will be an update at the January meeting.
- Operators and Field Representatives with a cancellation date on June 30, 2011 who did not complete the renewal process were cancelled on Sunday, October 2. The audit for continuing education for the licensees who renewed will begin in November with a complete audit of twenty-five percent of said licensees.
- Audit letters were mailed to twenty-five percent of the Applicators that renewed between July 1, 2010 and May 31, 2011.

Mr. Utley asked Ms. Saylor if there is concern about the Governor taking the half million dollars that was not spent in the budget.

Ms. Saylor responded that if there is a large amount in reserve that there is always a chance of having the Governor borrow the money and in fiscal year 03/04 the Governor borrowed 2 million from the Board and paid it back in fiscal year 07/08.

Mr. Good asked why there is such a large increase in WDO filings.

Ms. Saylor replied that in addition to the WDO enforcement letter sent out in early August, Elizabeth Chervenak runs a report every three months for the specialists letting them know what companies are not filing, and the specialists have been out meeting with these companies.

Mr. Good questioned whether staff is going to look into companies that are now filing activities but had not in the past.

Mr. Douglas replied stating that companies' filing histories will be reviewed.

Mr. Good suggested giving these companies an opportunity to file all of their activities before they are cited for not filing.

Mr. Douglas responded that Mr. Good's suggestion can be discussed with the specialists.

Mr. Tamayo commented that the point of the enforcement is to get all companies filing and not to punish people. He added that he would like other options to be looked at and reported at the next meeting.

Mr. Utley stated that this issue has come up a lot at informal conferences and that Mr. Douglas lets the licensees know that the Board is simply looking for them to comply and not to punish them.

Mr. Arzate asked what the fine is for the first violation for not filing WDOs.

Mr. Douglas responded that the initial fine is \$2,500 plus \$2.50 per activity not filed.

Mr. Douglas reported on the following:

- Because the Southern California Specialists handle their workflow efficiently, the very large Northern California territory has been divided between the current Northern California specialist and the person filling the specialist vacancy. He stated that the Southern California Specialist territories have been reassigned because specialists are running into each other while out doing different enforcement checks on companies. He added that with the specialists now having their own territories, one specialist will be assigned to make all enforcement visits to the companies in their assigned territories.
- The official recruitment for the permanent Executive Officer was posted online on Monday, October 4. All applications must be postmarked by November 1, 2011.

Mr. Good asked if the recruitment was posted on PCOC's website.

Martyn Hopper, PCOC, responded that the recruitment is not currently posted on PCOC's website, but it can be added if the Board likes.

Mr. Tamayo asked Mr. Douglas how many companies are registered in Northern California.

Mr. Douglas replied that there are approximately 120 to 125 licensed companies in Northern California.

- Language for the repeal of Business and Professions Code 1970.5 was reviewed with the Board members. This section is not currently being enforced but more information for the official repeal is still needed.

DEPARTMENT OF PESTICIDE REGULATION UPDATE

Kathy Boyle, DPR, reported on the following:

- DPR is coming out with a policy letter to notify County Agricultural Commissioners (CAC) of the United States Environmental Protection Agency (USEPA) mandate regarding the use of chloropicrin as the warning agent for sulfuryl fluoride fumigations. The change relates to the use of more than two pick pans being used in a fumigated structure. The new policy will allow a fumigator to place multiple pick pans only if they are wearing a Self Contained Breathing Apparatus (SCBA) but only two pick pans per person not wearing SCBA.

Mr. Utley asked how the number of pick pans being placed by each person can be limited to only 2 when there are a limited number of entrances in a structure.

Ms. Boyle responded that the product labels were registered in February but because USEPA allows time for the products in trade to run out, the new cylinder labels do not have to be used in the nation until December 10.

Mr. Utley commented that because this label is supposed to be in place by December it would be beneficial for the industry to have DPR's interpretation regarding how it will be enforced.

Ms. Boyle stated that she will follow up on this issue.

- There are differences between the personal protective equipment that one must wear when applying chloropicrin and turning on the cylinder for sulfuryl fluoride.
- The Enforcement Response Regulations became effective on September 22 which defines "incident" and changes the structure in which the level of a violation is determined.
- There is a new section of law that sets criteria for citing licensees of the Board. Criteria are set for enforcement actions resulting in a fine, a three day suspension or attending a class in lieu of a fine.
- There are a few items relating to structural licensees in the Surface Water Regulation packet that will be submitted to OAL in mid October and the 45 day comment period will be soon to follow.

Mr. Good asked Ms. Boyle if she attends the fumigation meetings.

Ms. Boyle replied that since the travel restraints were put in place the representatives from the Anaheim Field Office have been attending these meetings and reporting to her.

Mr. Good asked Ms. Boyle if she was aware of the lack of enforcement coming out of Santa Clara Valley.

Ms. Boyle responded that she has heard both sides of the story and it seems that there is a difference in opinion regarding the expectations. She added that members of the Santa Clara Agricultural Commissioner's Office hope to meet with some of the members of the Fumigation Enforcement Committee to discuss how they arrive at their numbers compared to how the other counties are calculating theirs. She added that in Santa Clara, San Diego, Los Angeles, or Orange counties an extra five dollars is paid directly to the county to cover the cost of having an additional part time position for extra enforcement, but a target percentage of extra enforcement was not set in regulation.

Mr. Good asked if there was a contract in place between DPR and the CACs to perform certain duties regardless of the extra fee in place in those counties.

Ms. Boyle replied that each county has a negotiated work plan and get paid differently for regular inspection activities. She stated that the enforcement efforts being discussed are in addition to the regular inspection activities.

Mr. Good questioned whether the counties are keeping up with the expectations of their negotiated work plans.

Ms. Boyle replied that there is a field liaison for each county and they would have the details.

Mr. Arzate asked if there was an update regarding appointments to vacant Board Member positions.

Mr. Andrews stated that he does not have an update regarding the Board Member vacancies.

Mr. Good asked how many burglaries were reported for homes that were being fumigated.

Ms. Boyle stated that burglaries in the Bay Area and in Southern California have increased and because of the California Aeration Plan (CAP) the homes are more accessible because the doors and windows are required to remain open. In San Diego and Los Angeles counties, the CACs are working with local law enforcement to let them know when fumigation is going to be done so that there can be surveillance on the property.

RESEARCH UPDATE

Dr. Vernard Lewis, U.C. Berkeley, made a presentation on "Laboratory and Field Investigations of Monitors for the Bed Bug, *Climex Lectularius*".

Dr. Neil Tsutsui, U.C. Berkeley, did not present his research update at this meeting.

APPOINTMENT OF COMMITTEE TO CONSIDER STANDARDS FOR INTEGRATED PEST MANAGEMENT (IPM) CERTIFICATION PROGRAMS

Mr. Tamayo reported that the proposed members of the committee have agreed to meet via teleconference for scheduled teleconference meetings and that each of their locations will be readily available for public attendance. He suggested the following members: Darren Van Steenwyk, Dave Tamayo, Luis Agurto, Jim Steed, Michael Rust, Bob Rosenberg, and Carolyn Cox. He suggested that DPR will have ongoing input but will not vote as a committee member.

Mr. Utley moved and Mr. Good seconded to approve the seven proposed members of the committee. Passed unanimously.

Mr. Tamayo stated that a chairperson will be elected at the first meeting.

Mr. Douglas stated that he will get the required paperwork out to the committee members.

CLARIFICATION OF PROCEDURE REGARDING TEST HOLES

Mr. Douglas reviewed the Test Hole Committee's formal conclusion regarding test holes with the Board members.

Mr. Good asked that this notice be sent out to the industry.

DISCUSSION REGARDING CLOSED ACCUSATIONS BEING POSTED ON THE BOARD'S WEBSITE

Ms. Saylor stated that in the Board's licensing database a code is used to identify licensees with closed accusations and up until recently that code was identified as a code that should be transferred to the public website. She added that if there was a closed accusation within the past five years that the actual document will show on the website under "public record documents" instead of reading "Closed Accusation" under the license status.

UPDATE ON RENEWAL PERIODS FOR APPLICATORS

Mr. Douglas reported that the Applicator renewal dates can not be split among two dates as previously discussed. He proposed that the board change the Applicator renewal date to June 30 to coincide with the Field Representative and Operator expiration dates.

Steve Delk, PCOC, stated that he is in favor of this new renewal date.

Bill Gillespie, Research Endeavors, asked how the expiration dates would be converted.

Mr. Utley responded that the new expiration dates would be determined as if the license was just issued.

Ms. Saylor stated that the legislation would have to identify exactly how the dates would be determined.

Mr. Tamayo moved and Mr. Utley seconded to move forward with making June 30 the new expiration date for Applicators. Passed unanimously.

Mr. Good asked that the renewal dates be changed to June 30 but not making the licensee renew before their current expiration date.

Mr. Utley questioned the options for continuing education for those who hold both an Applicator and Field Representative or Operator license. He explained that courses do not exist that are relevant to both licenses and when making all expiration dates June 30, that staff should look into approving some courses that cover an Applicator's hours and those of an Operator or Field Representative.

Mr. Good asked Mr. Douglas to come back with a full review for January's Board meeting.

UPDATE FROM THE STRUCTURAL PEST CONTROL ACT REVIEW COMMITTEE

Mr. Douglas reported that the Structural Pest Control Act Review Committee met on September 7, 2011 in Anaheim and will meet again on November 16 in Sacramento.

Mr. Good thanked Harvey Logan for his past work on the committee.

FREDDIE MAC HOMES – LICENSED CONTRACTORS AND BRANCH 3 COMPANIES

Mr. Utley stated that Freddie Mac released a notice that stated that branch 3 companies are not to be used to complete repair work and only Freddie Mac contractors can be used for said work. He added that this does not protect the consumer.

Mr. Douglas stated that he contacted Freddie Mac to obtain a clearer copy of their directive and had no response. He commented that this directive is contradictive to the board's mission regarding consumer protection by not allowing pest control industry experts to perform branch 3 repairs. He added that a branch 3 company is not going to clear work that they did not perform.

Mr. Utley pointed out that the Freddie Mac contractors are not trained to identify the possibility of problems in inaccessible areas or have the knowledge to suggest further inspection and would ultimately repair the outer damage without looking into further problems that may exist.

Mr. Hopper asked the Board to recommend to the Director to write a letter to Freddie Mac addressing their concerns.

Mr. Ineichen stated that Freddie Mac is having issues with California reports because they are not on a National Pest Management Associations prescribed form.

Mr. Gillespie recommended that the Board contact a Federal Legislature to address the lack of response from Freddie Mac.

Mr. Tamayo recommended making future legislation to prevent things like this from happening.

Mr. Utley responded that in reaction to seeking this type of legislation Freddie Mac can withhold bank repossessions.

Mr. Tamayo moved and Mr. Good seconded to direct staff to work with legal counsel and proceed with correspondence. Passed unanimously.

ANNUAL REVIEW OF BOARD PROCEDURES

Mr. Douglas reviewed the changes made to the current procedures.

Mr. Arzate moved and Mr. Utley seconded to approve the proposed changes to the board procedures. Passed unanimously.

ELECTION OF OFFICERS

Mr. Arzate moved and Mr. Utley seconded to nominate Mr. Good as the Board President and Mr. Tamayo as the Board Vice President. Passed unanimously.

BOARD MEETING CALENDAR

Mr. Douglas stated that the next meeting was scheduled for January 11 and 12 in Sacramento and added that there needs to be a closed session meeting in December in Southern California to take care of a disciplinary case and possible reinstatements. A closed session meeting was scheduled for December 6, 2011 in Southern California.

The next board meeting was tentatively scheduled for April 25-26, having closed session during the afternoon of the 25th and the open meeting on April 26.

FUTURE AGENDA ITEMS

Mr. Douglas reviewed the future agenda items discussed at the meeting:

- Enforcement program relating to WDO activities
- Fumigation issues relating to burglaries
- Continuing Education hours relating to the new expiration dates for Applicators
- Review of laws and interactions with other agencies regarding Freddie Mac Homes
- Update on research projects

Mr. Tamayo asked that a report from the IPM Certification Committee is added as a future agenda items.

There were no other requests for future agenda items.

PUBLIC COMMENTS NOT ON THE AGENDA

Mr. Gillespie asked why the continuing education courses are not listed alphabetically by the provider's name.

Ms. O'Flaherty stated that the continuing education courses are listed numerically by the course number and alphabetically by the course provider's names and that she will e-mail Mr. Gillespie the links to both.

CLOSED SESSION

The Board adjourned to closed session to consider proposed disciplinary actions in accordance with subdivision (c) (3) of section 11126 of the Government Code.

The meeting adjourned for the day at 4:32 P.M.

The meeting reconvened at 9:08 A.M. on October 6, 2011.

Board members present:

Curtis Good, President
David Tamayo, Vice President
Cliff Utley
Cris Arzate

Board staff present:

Bill Douglas, Interim Registrar / Executive Officer
Susan Saylor, Assistant Executive Officer
Ronni O'Flaherty, Staff Services Analyst
Elizabeth Chervenak, Associate Program Analyst
Ron Moss, Board Specialist
Karen Costley, Staff Services Analyst
Peggie Gibbs, Office Services Supervisor II
Viki Whitaker, Staff Services Analyst
Joseph Halligan, Office Technician
Nancy Gaytan, Associate Program Analyst

Departmental staff present:

Chuck Andrews, Associate Director
Kathy Boyle, Enforcement Program Specialist
Michael Zeiss, Staff Environmental Scientist
Jodi Clary, Legal Counsel

Deputy Attorney General Langston Edwards was also in attendance.

Martyn Hopper, Pest Control Operators of California, was also in attendance.

STRATEGIC PLANNING

Mr. Good introduced Larry Bienati as the facilitator of the Board's 2011 Strategic Planning Session.

Mr. Bienati stated that the mission of this session is to update the Structural Pest Control Board's 2007 Strategic Plan. He asked that staff and stakeholders speak openly and honestly so that together, a strong strategic plan can be drafted.

The group reviewed the department's current strategic plan and compared it to the Board's. The similarities and differences were noted and absent goals of the Board were incorporated into a draft mission statement.

The Board members stated that their current concerns include:

- Unlicensed activity
- Effective enforcement process
- Examination process
- Technology between DCA and DPR
- Finding a balance between consumer protection and DPR's mission
- Enhancing the role of Integrated Pest Management
- Improved staff education among Specialists
- Raising the bar for the profession
- Transparency
- Fiscal prudence

The staff members stated that their current concerns include:

- Team Work / Collaboration
- Filling staff vacancies
- Cross training staff
- More education, training specialists to handle incoming calls
- Better communication between units prior to issuing or renewing licenses
- Improved enforcement powers, P.O.S.T Training
- Reduce obstacles within the department for getting subpoenas
- Making an Investigation Unit dedicated to unlicensed activities
- Clarification of mission and vision statements (DPR vs. SPCB)
- Duplicating efforts between CACs and SPCB
- Review of Enforcement Unit activities
- Work flow / Process analysis

Ms. Boyle expressed concern regarding the comparison of pay between DPR Investigators and SPCB Specialists.

Cumulatively, the group came up with the following goals:

- Enforcement of the Act
- Staff training / Development / Succession
- Educational Outreach / Consumer Protection
- Examination Process Improvement
- Promote a Higher Level of Service

- Improve Technology
- Ensure Fiscal Accountability
- Addressing Environmental Concerns
- Awareness / Communication with Legislature
- Pest Management

The group discussed the obstacles and possible strategies and goals of:

- The Enforcement Unit
- The Licensing Unit
- The Board's Fiscal State
- Consumer Protection and Education
- Staff Development / Human Resources

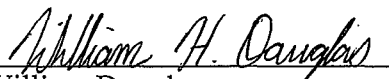
Mr. Bienati advised the group that he will review all of the concerns and possible solutions and prepare a draft SPCB Strategic Plan for the Board members review.

The meeting adjourned at 4:35 P.M.



President

12/7/11
DATE



William Douglas,
Interim Executive Officer